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Law vs. Arts: The Number of Teaching Hours

AMERICAN Law Schools of today have developed approximate uniformity of practice in regard to the amount of class room teaching required of faculty members. In the strongest schools from five to seven teaching hours per week has been observed as the working rule, while in the great majority of law schools from seven to nine teaching hours per week has been required. Only in exceptional cases has the regular teaching time required reached ten or eleven hours per week, while the instances are few indeed, and are confined to institutions of no great repute, in which the teaching time required has exceeded these figures.

In connection with this teaching schedule for faculty members, the law schools of the country have also developed approximate uniformity in the schedule of work required of or permitted to students carrying law work. All the schools of importance have a student schedule of about twelve hours per week. An occasional one may still require only ten hours per week, while a considerable number permit thirteen hours per week as a maximum, with here and there one permitting fourteen hours per week to be taken.

In contrast with these generally prevalent rules as to class room hours for faculty and students in the law schools is presented the radically different situation in these respects prevailing in other departments of the universities. Large differences in faculty teaching hours are found as between one department and another and as between work of one grade and work of another grade in the same department in every university, but with few exceptions the teaching hours established in them all exceed the teaching hours observed in the law schools. The student schedule for any university as a whole also uniformly

exceeds the student schedule in the law school by from three to five or more hours a week.¹

The apparent disparity of work observable when the measure is taken in this mechanical fashion inevitably leads to controversy, more or less spirited, as between one department and another, and as between the high-hour groups and the low-hour groups, in the latter of which the law schools become a conspicuous target for attack since they are uniformly at the bottom of the scale in the matter of hours of work required.

This controversy manifests itself somewhat in the consideration of comparative credit to be awarded by the university for different sorts of work. Thus it is now the rule in many universities that a student may graduate, receiving the degree of A. B., on completing the number of credits corresponding to a four-year course in Arts, or he may graduate, receiving the degree of A. B., on completion of the number of credits corresponding to three years of work in arts and one year of work in law. In the combination Arts-Law course, twelve hours of law may thus be credited by the university as equivalent to sixteen hours of arts. Similar considerations arise in connection with the amount of work necessary to qualify a student to represent the university in intercollegiate contests. When attention is drawn to this feature some university man not connected with the law school may frequently be found who questions the propriety of such greater recognition, basing his opinion on the ground that a unit of law work is worth no more than a unit of any other kind of university work.

The controversy becomes even more acute when the question of relative salaries and departmental expenditures in the university budget is reached. If law faculty members carry fewer teaching hours than faculty men in other departments it follows that relatively more law faculty men must be employed to carry a given amount of unit credits or work in law than is required

¹ These statements rest upon an investigation regarding the matter of teaching hours and student hours at the universities throughout the country. In this investigation the leading universities were of course included, but the inquiry also included many other institutions representative of their class. It is significant that in the whole investigation on the matter, neither was an instance found where the student hour schedule in law equalled the student hour schedule in arts, nor was an instance found where the faculty teaching hours in law equalled the faculty teaching hours in arts.

under the heavier hour schedules in other branches of the university, and that the university expense for law work becomes relatively heavier per unit credit of work offered, other things being equal, than it is for other university work. With only a given sum to be dispensed for university purposes the situation, apart from special endowments, therefore actually is in a large sense that what is given to one department is taken from another. If retrenchment can be practiced in one department more money will be available for distribution among the others. As no department can get all that it can use, or even all of which it reasonably stands in need, the university administration is exposed to constant pressure to "equalize" the distribution on the basis of the work done, and is likely to be constantly reminded that relatively more is being spent for legal instruction while relatively less "work" is done in return for the expenditure than in any other department of the university.

Nor are things equal apart from the difference in teaching hours between the law schools and other departments of the university. Law teachers proverbially demand, and on account of their alternative opportunity in practice often obtain, relatively higher salaries and more rapid promotion than is accorded to faculty members of the university generally. This feature strongly accentuates the fact that the law school work costs the university more, per unit of credit, than the work in most if not all other departments. The law school situation is therefore likely to be a constant source of more or less well concealed irritation in connection with university administration, and in the hands of any but an able, well informed, and far seeing university president, may become a fertile source of irreparable mistakes in adjustment.

If the controversy is permitted to become active the law school is likely to be called on to "justify" its variation from the "normal standard" of university teaching hours, and in the event of its failure to convince, to do the impossible by conforming to the general university standard, so far as teaching hours are concerned. The purpose of this paper is to set forth the merits of the law school case which must be made out when the law school is thus called before the bar to be literally tried for its life.

As a preliminary remark upon such a proceeding, one may

venture the suggestion that in the usual course of things the arrangements that now obtain ought to be continued unless sufficient reasons appear for making changes, rather than that changes should be made unless sufficient reasons appear for maintaining the status quo. That is the natural principle adopted by all mankind in adjusting their ordinary affairs. That is the basic principle everywhere obtaining in the conception that a person is to be considered innocent until he is proved guilty, rather than that he is to be considered guilty until he proves himself innocent. Without any reason being adduced it is hard to see why the assumption should be made that the established law school basis of teaching hours is wrong rather than that the established basis is presumptively right. Further, without any reason being adduced, it is hard to see why the assumption should be made that a uniform standard of teaching hours throughout the university is right and ought to be introduced, instead of continuing the practice already established which rests on some sort of past experience. If the university authorities take the position, however, that the established law school basis of teaching hours is wrong until convincing proof is forthcoming that it is right, the law school has no alternative but to call attention to the irregularity of procedure and proceed, if it can, to prove itself innocent. Be the procedure in this respect as it may, in either event the law school must be prepared, when called to the bar, to justify its position so far as it varies from the rough average basis obtaining in the particular university as a whole. Whether the university administration gratuitously assumes that all teaching hours ought to be equal, in the absence of proof to the contrary, or whether arguments are made that the existing relation between the law school teaching hours and the hours obtaining in other departments is unfair for any reason, the law school must in either event be prepared to give convincing reasons for its position or have its basis of teaching hours changed by authoritative orders from the powers that be. In justification of the law school position regarding teaching hours the following suggestions are therefore offered for the consideration of every university administration dealing with the controversy.

In the first place, even on the assumption that uniformity in such matters is desirable, the rule of uniformity cannot itself

be applied with uniformity by the simple expedient of prescribing a uniform schedule of teaching hours to every member on the university faculty. If arts teachers carry a less number of hours than is required of their students the university cannot consistently in the name of uniformity prescribe for its law faculty a greater number of hours than is required of law students. So long, for example, as twelve hours per week of law is equivalent to sixteen hours per week of arts in the student's work, so long must twelve teaching hours of law per week be equivalent, on the basis of uniformity, to sixteen teaching hours of arts per week in the comparison of faculty schedules. So soon as this comparative basis is departed from by requiring numerical equality in teaching hours, obvious discrimination prejudicial to the law faculties immediately takes place in that their possible current preparation for meeting their classes is cut below that of their own students, while in the other departments possible current faculty preparation is left greater or at least equal to that of their students. No university administration can desire to place its law faculty in such a position without reasonable assurance that less current preparation is required for effective teaching in law than is required in other subjects. Needless to say, such assurance can in the nature of things never be obtained, for, as will be indicated below, effective law teaching is very exacting as regards the teacher's current preparation. The uttermost limit therefore, to which the scale of uniformity can be consistently applied to the matter of adjusting relative teaching hours, even granting that it is the proper scale to apply, is to require the same relation between teaching hours and student hours throughout the university.

At this point the objection will be made that the student hours should also be equal, that there is no rational basis for regarding twelve hours of law as equivalent to sixteen hours of arts. The answer to this objection is very simple, and may be expressed in the single word "experience." Everyone who has carried college work of the ordinary types, and has thereafter studied law in our modern law schools, knows how much more intensive the law work is by comparison. He knows how much harder he had to work to carry his twelve hours of law satisfactorily than to carry his larger number of hours in arts,

and how much harder it was to win excellent marks in law than in arts. Present student testimony, so far as the present writer is aware, is uniform and without exception that more and harder work is required to carry the course in law than the same students were accustomed to give to their course in arts. The reason for the greater intensity of the law work is to be found in the nature of the work itself, combined with the fact that its study is a definite preparation for a particular field of work in life which stimulates the student to a much greater degree in putting forth his utmost effort than is customary in the case of the studies ordinarily included in a college course designed to secure a liberal education. Further, the testimony of all educators familiar with the subject is practically unanimous that the lesser number of hours of law is fully equivalent to the larger number of hours of arts in the demands they make upon the students' efforts. In proof of this statement one need only point to the striking unanimity with which such difference in student hours, as between law and arts, is maintained in all the universities of the country. The student hours in law, like the teaching hours in law, cannot consistently in the name of uniformity be equalized numerically with the hours in arts. The attempt to equalize student hours in law and arts, if seriously undertaken, can lead only to superficial and perfunctory preparation on the part of the law student, resulting in its turn in a poorer quality of professional attainment which will eliminate him from any serious competition for success in practice, and, as far as he continues in practice, will lower the standard of efficiency of the legal profession.

Again, conceding that uniformity is desirable, the rule of uniformity cannot be applied with uniformity without taking into account the substantial difference between undergraduate and graduate instruction. In several law schools at the present day, law work is placed on a strictly graduate basis, while in a great many, if not indeed in most law schools of importance, a foundation of college work of at least two years in amount is required. Mathematical uniformity of teaching hours both for the teaching of elementary subjects and for the much more exacting work involved in teaching subjects of an advanced character cannot reasonably be insisted on. Outside of the law schools themselves, however, unless the law schools are on a

strictly graduate basis, the fact is likely to be overlooked that law work is work of an advanced character, corresponding roughly with graduate work. In the application of the rule of uniformity of teaching hours, conceding that such application can be proper in any case as between the law schools and other branches of the university, allowance must be made for the fact that law work is substantially graduate in character and therefore cannot fairly be compared, in the matter of estimating teaching hours, with ordinary college subjects which are more elementary. In this connection, too, it must not be overlooked that the law teacher's entire schedule is concerned with work of this advanced character, and therefore has not the balance of elementary and advanced work often presented by the schedules carried by other members of the university faculty.

It cannot be granted, however, that the scale of uniformity can properly be applied to justify the same relation between teaching hours and student hours, so far as the law school is concerned, as may prevail on the average throughout the university generally. The scale of uniformity, so far as the matter of relative teaching hours is concerned, requires equality of effort from all members of the faculty, not equality of hours spent in the class room. Equality of effort, too, seems to be the ideal toward the realization of which uniformity of teaching hours is proposed as a rough working rule. On the basis of equality of effort in the work actually done, though class room hours may differ, the law school can welcome comparison with the standard or average prevailing in the university generally. If comparison on that basis is undertaken in good faith, it is likely to demonstrate that law school teachers average not less but more work per teaching hour than most men in other departments, and that application of the scale of equality of effort therefore leads, not to uniformity, but to disparity of teaching hours.

As most university men outside of the law schools are usually totally uninformed regarding the efforts required in preparation for effective law teaching, it may not be amiss to describe at some length the demands made upon the law teacher in our modern law schools. Impartial judgment can then see, though previously uninformed, that both in the matter of current preparation for immediate class room purposes and in the matter of

more general duties requiring time and attention, the demands upon the law teacher, even with a number of teaching hours relatively small as compared with other departments, involve efforts in their performance not surpassed anywhere in the university work.

The work demanded of the law teacher may be roughly divided into three general classes, the irreducible minimum of day to day preparation for effective class room instruction, the legal work of more general application which is forced upon his attention, and the general duties of a civic and social nature that he is called upon from time to time to perform. Each of these three classes of work must be separately described at some length in order that educators outside of the law schools may appreciate the magnitude of the tasks imposed.

The law teacher's first and foremost duty is, of course, to prepare himself from day to day to give effective instruction to his classes. As has been often said, this is a large matter even to old and experienced law teachers. To beginners it is a Herculean task requiring all their attention and never performed with complete success. The first beginning of preparation for each class from day to day must be a careful analysis of the facts of each case prescribed. As the facts are often complex and the matter in dispute is always controversial in character, this analysis requires deliberate and painstaking attention, and precludes the possibility of hurry. Further, this part of the work must to a considerable extent be repeated each year, irrespective of the law teacher's general familiarity with the questions involved, since the details of fact cannot be carried long in the memory. The analysis of the cases, while requiring painstaking work of preparation at all times, is of course, peculiarly exacting the first time a new case book is used, the situations to be dealt with being then to the teacher entirely new.

For satisfactory preparation for his work in the class room the law teacher cannot, however, rest content with a careful analysis of each case to be discussed. He must work out so far as he is able the relation of each case to its prior and succeeding cases in the selection used as a basis for his teaching. Without careful attention to this feature of his preparation the teacher cannot form a rational and consistent view of the law with which he is dealing, cannot himself learn to know and

understand the law he is supposed to be teaching. As the idea was forcefully expressed by Dean Thayer, "He will constantly find that what came to him from his teachers, no matter how learned or skillful they were, cannot be made vital or helpful by him until he has passed it through his own mind, and seen it for himself, in his own way." Neglect of this feature of his preparation quickly visits upon the law teacher the penalty of unsatisfactory class room work, a warning that for successful teaching of law from cases the instructor as well as the students must be properly prepared in advance.

Yet more is required for proper preparation for the class room work. The law teacher must not only analyze his cases and work out an intelligible legal position on the basis of the material furnished by these cases, but he must also work out some scheme of presentation by which to enable his class to grasp the knowledge he has acquired and develop the power to use it in further applications as occasion may require. On the mere matter of presentation the law teacher must carefully consider and select what points ought to be drawn out from the class on the basis of the work prescribed, what points ought to be used for purposes of dialectics, and how far such dialectics may profitably be pursued. For satisfactory presentation the law teacher must also be prepared to give summaries or short summarizing statements at the end of the discussion of the particular topic dealt with in order to clarify the thoughts of his students and assist them in reaching a definite conclusion on the matter in hand. Whether it is desirable always to make such summarizing statements to the class may as a matter of pedagogy be open to question, but the law teacher must for effective presentation be prepared to make them if the exigency should seem so to require. If the teacher has already presented the subject before in teaching other classes, he will also want to consider, in the light of that past experience, how to improve the presentation now in hand. If proper attention to this feature of instruction is given from year to year it cannot fail to reveal to the law teacher almost limitless possibilities of self-improvement.

Finally, in preparation for his immediate class room exercises from day to day the law teacher is of necessity compelled to do a good deal of work in the way of running down, so to speak,

collateral questions immediately arising in connection with the prescribed cases. While no precise limits can be set as to how far it is necessary to carry such collateral inquiries in connection with the daily work, it may be stated as a rough working rule that the law teacher must do enough of it to enable him to answer questions intelligently when questions thus suggested in the material in hand are put by members of his classes. New questions of such character are put every year, with the personnel of classes constantly varying and reacting differently, as it were, to the stimulus afforded in the prescribed case work and its accompanying class room instruction. To anyone who has taught successive law classes this feature is abundantly familiar, but for the information of university men not connected with legal instruction slight further illustrations may be desirable.

Let it be supposed, then, that the case under discussion was selected because it contains facts helpful in the consideration of what is a battery. Elementary instruction on the basis of decided cases will be directed to the feature that for a battery to take place force must hit the body. On such a simple proposition numerous related questions may immediately suggest themselves, and some of them are sure to be asked in the course of the discussion. The instructor will be asked, for example, what effect it would have on holding a blow to be battery if the other fellow had hit first, what effect if there was a mutual fist fight, what effect if the blow was not inflicted directly but occurred through the intervention of other forces deliberately set in motion, what effect if the force of bodily pressure was exerted in a congested crowd, etc. Similarly, on the question of what constitutes assault, with the consideration of one state of facts making out a case of liability, other states of fact somewhat varying in details are sure to present themselves to attentive minds in the class and questions upon them inevitably follow. Thus, for example, with the case holding it to be assault to aim a loaded gun at a man within range such questions will immediately occur as: "Suppose it were not loaded?" "Suppose it were made of wood?" "Suppose it was loaded, but was by the victim supposed not to be?" Obviously, in order to carry on the class room work satisfactorily the law teacher must be able to answer questions of this nature, either on authority or

on the basis of reasoning from established positions. Obviously, his preparation must have been carried somewhat beyond the preparation made by his own students or his work must decline from the character of helpful instruction to the character of the work of a mere quiz master, whose principal purpose is to ascertain whether the students have studied their lessons. Since collateral questions related to the matter in hand are constantly arising at all stages of legal instruction from the first meeting with a class till the last, and since the identity of such collateral questions is constantly changing with the changes in personnel in classes from year to year, the law teacher is constantly required to do considerable work to be prepared to meet such collateral inquiries as a part of his day to day preparation for effective class room instruction.

It may thus be seen how large a task is the irreducible minimum of the law teacher's day to day preparation for effective class room instruction. He must not only analyze his cases, and frame a scheme of the law founded thereon, but he must also work out a basis for its presentation to the class and run down collateral points likely to arise in connection with the prescribed work. Further, this work must in large measure be repeated from year to year. This is the content of the irreducible minimum of day to day preparation, since neglect of any one of these features is immediately reflected in impaired class room efficiency. This irreducible minimum, it will be observed, does not provide any opportunity for the law teacher to improve himself by carrying his study of any subject further than the immediate needs of instruction from day to day require. Even his immediate teaching will therefore in the long run deteriorate, through his becoming a mere legal hack, if so many teaching hours are required of him as to afford him time for nothing further than this irreducible minimum of preparation for day to day class room instruction.

The demands upon the law teacher's time are not confined, however, to the requirements of the irreducible minimum of day to day preparation. Legal work of more general application is constantly thrust upon him, whether he desires it or not, which he can avoid only by curt refusal to devote his attention when his assistance is desired. Further, there are some sorts of work of more general nature which are admittedly very valuable for

his self-improvement in making himself a better teacher. Inability to take part in the performance of such work through the pressure of day to day work with law classes therefore prevents the development of maximum efficiency. If the individual law teacher's development is prevented from reaching even the standard of efficiency generally prevailing among law teachers, the effect of continued poorer teaching is reflected in inferior preparation by his students as compared with their competitors in practice, tending to result in their elimination from the struggle, or, so far as they succeed in maintaining themselves in practice, lowering the standard of efficiency in the legal profession. What the law teacher's legal duties of more general application are, like his duties involved in the irreducible minimum of day to day preparation, must for the information of educators not connected with law schools be described at some length.

One of the first matters to attract the law teacher's immediate attention, apart from the doing of his irreducible minimum of day to day preparation, is the necessity of consultation with his students outside of the class room. Such consultations will center around the students' difficulties in grasping the law work, will concern other questions of a legal nature affecting them or their families, and may often even deal with their personal problems of a more general nature. Unless the students are very few, consultations of this character are likely to consume considerable time. The law teacher must put himself in this respect at the disposal of his students or, by his refusal to be accessible, restrict the best opportunities to be helpful to them and at the same time impair his own position for the most effective teaching by foregoing the personal acquaintance which promotes mutual understanding. To express it in another way, the law teacher will, unless deliberately prevented, be called upon to make a thorough study of his classes as well as of his subjects, a study which of course he ought to make in the interest of effective teaching. That study, while abundantly worth while from the standpoint of teaching efficiency, will carry him into the consideration of many special and peculiar problems, not even always of a legal nature, and will in the aggregate occupy considerable time.

A second feature of the law teacher's legal work of general application is his duty of following up the current growth of

the law. This task has now become so immense that no single individual can by any possibility follow it all. In the case of most members of the bar, no attempt is generally made to follow minutely much more than the current reports of the decisions and statutes in the home state. With tens of thousands of decisions annually handed down and reported throughout the country and with thousands of statutes annually enacted, the bulk is too immense for the law teacher as well as for the practitioner to follow. The law teacher will usually try, however, if time can be found, through the aid of indexes to statutes, through the use of head notes and digests to the reports, and through following the trend of discussion in legal periodicals, to keep up with the progress of the law in regard to the subjects he is teaching. Even when confined to these narrow limits his task in merely keeping abreast with the law is too large to be satisfactorily performed without the expenditure of much time and study. The law grows through the adjudication by the courts of litigated cases and through the adoption by legislative bodies of statutory enactments. In regard to each of these features of growth, progress takes place only in recognition of the existence of wrongs to be righted, frequently involving disputed and conflicting considerations of an economic, political, or social nature, for the proper understanding of which special study along those lines becomes necessary. Constitutional questions regarding legislative restriction of hours of labor or terms of employment can be properly understood only in the light of their economic aspects. Questions of defamation or sedition cannot be properly handled without consideration of the civil right of freedom of speech. Intelligent reforms in criminal law cannot take place without consideration of social conditions as producers of crime. Illustrations of this character could be endlessly multiplied, all showing that it is as necessary for the law teacher to study and know something of the vital questions that are involved in the struggles of the world about him and which are thrown into litigation, as it is for him to study and know the cases which are currently decided by our courts and the statutes which are annually enacted by our legislative bodies. For proper mastery of such questions he must be historian, economist, sociologist, and lawyer, all in one. When one considers the vastness of such fields of knowledge, the principles of which

must be mastered for concrete application to legal problems arising currently in litigation, and then adds to that undertaking the further duty of keeping up with the welter of decisions touching more or less closely thereon, it becomes apparent that the law teacher's task of "keeping up in his subjects," for which only a fraction of his time can be made available, is in itself a task of stupendous proportions. That this part of the law teacher's work, as conditions in law schools at the present time actually are, can not be entirely satisfactorily accomplished does not detract from the consideration that the work is eminently worth while, that it is highly important to the community as well as to the legal profession, and that it greatly enhances the value of the law teacher's work with his students.

A further feature of the law teacher's legal work of more general application, as distinguished from his irreducible minimum of day to day preparation, consists in consultation work with other attorneys. Such work is likely to originate and be continued through inquiries in person or by correspondence from his old students who have gone out from the school and who now find themselves in contact with puzzling practical problems in the solution of which they seek his assistance. No teacher of law can with good grace refuse to take interest or to give time to such cases. With the passing of the years such calls upon him are likely to increase rather than to fall off, unless he deliberately shirks the labor involved. As his acquaintance in the community grows and as his authority in his subjects becomes recognized, calls of this character from former students and from other parties may become so considerable as in themselves to tempt him to give up his law school work and go into practice where greater pecuniary rewards for his efforts are available. While no one concedes that the law teacher should let such work take precedence over his regular law school work, it is everywhere admitted that some occasional contact with the actual life of practice is to the law teacher wholesome for its effect in vitalizing his teaching. There are even some educators who earnestly contend that for the sake of his teaching he should as a regular matter carry a side line, as it were, of practice in actual current litigation. Whether he goes so far as that or not, he will always have cases brought to his attention wherein his assistance is sought, assistance which he cannot well refuse, but

the rendering of which will, in the aggregate, consume considerable time.

Finally, as a part of his legal work of more general application, the law teacher ought to have (whether in the usual case he actually has, is another question) some opportunity for productive scholarship. The case for productive scholarship need not be here recited at length. All educators are in position to appreciate its value, both for its service to society through the contribution of scholarly works of permanent value, and for its effect, through wider knowledge and better expression in increasing the author's teaching efficiency. These general considerations are as applicable to productive scholarship in other fields of knowledge. The interests of the community and the interests of the legal profession as well as the interests of the university in securing better teaching, are promoted by the law teacher's maturing his study of all the materials bearing upon the subjects he is teaching, and on that foundation writing scholarly articles and books embodying the results of his investigations. As the legal profession is at present organized, law teachers are substantially the only persons who are in position to make valuable contributions of this character for application to practical problems in litigation.

A further feature in productive scholarship for the law teacher consists in his work in the service of law reform. This is a natural outgrowth of his work in mastery of the subjects he is teaching, but will carry him much farther and make much more consistent demands on his time than is involved in the mere task of investigation for the purpose of writing books or articles of merely general application. The question of law reform is so vast, and is so interwoven with economic, political, and social reform, that the burden involved and the time consumed in connection with substantial work of this nature almost defies description. On the other hand, we have constantly before our eyes the spectacle of ill-considered reforms designed to remedy recognized abuses, but conceived without realization of all the elements involved and carried into operation in blundering fashion to the distress of all concerned. The administration of criminal justice, for example, affords a conspicuous illustration of a state of facts in regard to which it is easier to appreciate that glaring abuses exist than it is to point out effective remedies that will

be practically enforceable. In the service of law reform law teachers will be called upon to apply their mastery of their subjects to the solution of practical problems through service on bar association committees, and through the preparation of material for use in connection with legislative sessions or for the information and guidance of public officials. Work of this character is necessarily varied and irregular in its nature, but when undertaken consumes a great deal of time.

It will thus be seen that the demands made upon law teachers for legal work of general application, in addition to the requirements of the irreducible minimum of day to day preparation, are in the aggregate so numerous and of so burdensome a character that entire compliance with them all is physically impossible. There come demands upon him to assist with the problems of the students in his classes. The demands that he keep abreast with the growth of the law are insistent and cannot be ignored. The demands that he place his advice at the disposal of the profession is in the ordinary case unavoidable, unless compliance is curtly refused, a refusal which would embarrass his relations with his professional brethren and react upon his standing as a teacher of law. Finally there are the demands for productive scholarship, both as a means to mastery for teaching purposes of the subjects taught, and as a service to the cause of law reform which no one else can render. As law teaching schedules now stand, when the law teacher has properly done his irreducible minimum of day to day preparation for meeting his classes, and has complied with all the demands on him for legal work of more general application, he has used a good deal more than twenty-four hours every day in the process. In other words, even as law school schedules stand today, the law teacher is never able to comply with all the demands for legal work made upon him by virtue of his position, but finds himself constantly facing the problem of what professional duties can with the least harm be sacrificed to the next. How anyone who knows the facts can propose to increase the number of teaching hours of law, in order to equalize the burden by securing equality of effort throughout the university, is beyond reasonable comprehension. Such a proposal cannot make the law teacher's work harder, for he is already working up to the maximum limit. The only result that en-

forcement of such a proposal can have upon his work is to change its quality.

Still more remains to be noted, however, before the demands upon the law teacher by virtue of his position have been passed in review. Not only must he do his irreducible minimum of day to day preparation and be open to various demands upon him for legal work of more general character, but he must also from time to time devote attention to various social duties as a citizen and as a man. While in this respect the law teacher is not unique among the ranks of faculty members, some features of these social demands are especially accentuated by virtue of his position as a man connected with the work of the law. Only some brief suggestions, typical of the general demands of a social nature, can here be made.

In the first place, the law teacher has his duties toward his own immediate family. If his professional duties involve such burdens that time can hardly be found for meals and exercise, a picture not much overdrawn when applied to existing schedules, the law teacher has no opportunities either for association with his own wife, or for attention to the development of his own children. It certainly can not be sound university administration when dealing with the members of the faculty deliberately to make family life impossible.

A further demand of social duty of no small proportions is made upon the law teacher in connection with matters of a public or civic nature. Such calls are numerous and varied, coming at all sorts of times and taking all sorts of forms, the details depending upon the nature of the movements of the time, local or national, which call for attention. For the immediate past such demands are readily illustrated by referring to university committee work, commencement speeches, war relief work, registrants' questionnaires, Red Cross, and Liberty Loan campaigns. In the light of individual law teachers' several experiences such illustrations can be indefinitely multiplied and varied till the whole range of public concern is represented in the view. The propriety of the law teacher's responding to these calls is everywhere granted, and if he refuses his lack of interest in such matters is not overlooked in the community. How he shall find time to respond to such calls is, however, for the law teacher the tragic problem, since he can respond only by sacrificing

something else which he is also at the same time called upon to do.

Lastly, among the duties of the law teacher as a man and a citizen may be mentioned the duty in his position of carrying on some little social intercourse with his fellow members in the university, and also with his other friends and neighbors. While most law school teachers would welcome the pleasure of social intercourse, few among them find themselves able to gratify the desire. Among the multitude of demands upon them the merely personal social demands are likely to seem trivial by comparison and their satisfaction is therefore likely to be constantly postponed to more opportune times in the future. Even here, however, the law teacher cannot act to the neglect of such social calls upon him in his position without having his "short-comings" in this respect carefully noted in the circles with which he is ordinarily expected to come in contact.

The law teacher's work under the schedules as now commonly prevailing may therefore be said to consist of three general sorts of effort: the irreducible minimum of day to day preparation for effective class room teaching, the legal work of more general application which he is constantly called upon to perform, and the general duties incumbent upon him as a citizen and a man. In regard to each of these sorts of effort detailed examinations reveal tasks of great complexity and extraordinary proportions. Long before all the tasks for the day can be properly performed, the time at the law teacher's disposal during the twenty-four hours has been entirely consumed and the task for the next day has made its appearance in the present. Though it is physically impossible for the law teacher to do all that is expected of him on every hand, yet the demands upon him continue with unabated intensity. As to each demand by itself, its reasonableness as a call upon his attention will be freely granted by everyone. Those who make each single demand do not realize the magnitude of the other contemporaneous demands all clamoring for attention. The law teacher therefore finds himself in a very unenviable position. If he responds to all the demands upon him he can perform none of them satisfactorily, least of all can he perform his teaching satisfactorily. On the other hand, if he refuses to respond to demands made upon him he is judged, by the circle

in which he finds himself, to be a man remiss in the performance of his ordinary duties. Such being the description of the law teacher's task under the teaching schedules as now generally prevailing, no case based on equality of effort among the various faculties in the university can be made out in favor of increasing the number of teaching hours for the law schools.

The objection will be raised that other university faculties also have demands made upon them, both in the way of current preparation and in the matter of outside work, professional or social, that the law faculties are not unique in these respects, and that the existence of such demands cannot justify the present disparity in teaching hours.

One answer to this objection is that there are considerable differences in detail regarding the demands involved for effective class room work when different branches of university work are compared with each other. All concerned will grant that some such differences exist. Each is most familiar with the demands made for effective work in his own field and is likely to be largely ignorant of the demands involved in totally different sorts of work. A law school man will, therefore, not attempt to speak authoritatively regarding the details of demands involved in other departments, but will merely call attention to the fact that others are equally ignorant regarding the demands involved in connection with law teaching, and are therefore incompetent to pass judgment. Judgment on such a matter as the relative effort involved in carrying different kinds of university work can be properly rendered only by an impartial tribunal or superior, and can even then be properly given only after painstaking prior investigation of the facts involved. When that investigation is made, the question must be fairly asked, "In how much of the other university work do such demands occur with such intensity, with such constancy, and with such a wide range of application?"

A second answer to the objection that other university faculties with a large number of teaching hours have corresponding outside demands made upon them is that with the present demands upon law faculties requiring the maximum effort, increasing the number of law teaching hours cannot produce a larger response in the amount of work secured from the faculties, but can merely change its character. If more teaching

hours are required of the law faculties, to correspond with the average of teaching hours throughout the university, it will necessitate more day to day preparation. This additional day to day preparation cannot be undertaken except at the sacrifice of some of the other work of more general character, which is admittedly important, even apart from other considerations, for its effect in securing better teaching. When it is considered that the irreducible minimum of day to day preparation for each teaching hour in order to secure effective law teaching is relatively very considerable, the question is also presented whether even that day to day preparation for the work in hand could be satisfactorily performed if the schedule of teaching hours were considerably increased. Under such circumstances the law teacher would degenerate into a routine hack without opportunity for growth, and his teaching would inevitably follow the course of degeneration, as every law teacher who in emergencies has been required to attempt to teach old familiar subjects without the opportunity for current advance preparation can testify. Increase of teaching hours for law faculties, while therefore a matter of relative indifference, so far as current effort of the faculties is concerned, can only take place with a corresponding deterioration of the quality of the work done. The further question arises in that connection whether any but inferior men could be attracted to law teaching careers under such conditions. The real question, therefore, confronting the university administration which is involved in the controversy over relative teaching hours, granting that other departments are also working up to full capacity, is not a question of equality of effort, but a question of relative quality of work.

If the controversy over teaching hours is thus perceived in its true light, two inquiries must be made by the university administration before it can intelligently determine what action ought to be taken. In the first place, it must determine, in some manner satisfactory to itself even if not satisfactory to others, whether it is desirable deliberately to impair the quality of law teaching for the purpose of showing more liberality in trying to improve the quality of some other sorts of teaching in the university. On that inquiry the law schools can render little assistance, beyond calling attention to the importance of their own work to the community served by their graduates. If the

university administration determines, for reasons sufficient to itself, that such a course is desirable, it must, before it proceeds to act, determine further whether such impairment is likely to be compatible with the useful continuance of law school teaching in any form. On that question the law schools can submit the following considerations.

It is beyond the power of any single university to revise the generally existing relations between teaching efficiency in the various departments at the expense of the law school, without destroying the usefulness of that law school to the community, and thereby taking away the justification for maintaining it at all. In this respect the law school situation is sharply distinguishable from the situation generally prevailing so far as much of the other university work is concerned.

In the case of much of the university work, one may readily concede that such work is useful to the student even though not done as efficiently as it might be done under more favorable conditions. To a considerable extent, the students in the particular university would be denied a university education altogether were it not for the university they are now attending. If that university were for them unavailable, it by no means follows that they would be sure to be found in another. Whatever that university can do for them is therefore to them a clear gain even though it may not be done with all the top-notch efficiency which can be found in another institution. Further, it is desirable for the community that these students should get such information and development as this university can give them, since to the extent that their university work is effective they become more useful and therefore better citizens.

In regard to some sorts of university work, of which law is a conspicuous example, the situation is in this respect completely reversed. In the case of law work the consideration to which most weight is given cannot be the personal advantage to the individual student, in the enjoyment of which advantage, be it small or great as compared with his previous condition, he becomes to that extent a better citizen. In the case of law work the consideration to which weight is given must be its effect on the community. The work of the lawyer consists in rendering an important kind of specialized service to the community in which he obtains his practice. If that service is well

performed it is useful to the community. If that service is ill performed it is a positive harm if it could have been better performed by another. As there is a great surplus of lawyers over the demand for legal services, there is no absolute lack of lawyers, the only lack in this regard being a lack of the more capable lawyers. If the lawyer coming from the law school in question has not been efficiently trained, not only is he likely to be eliminated from the struggle for success in practice when he meets the competition of better trained lawyers from other schools, but his practice, so far as he succeeds in maintaining it, will be positively harmful to the community at the expense of which he is making the blunders attributable to his incompetency. Unless the law school can prepare its students at least approximately as well as their competitors are prepared elsewhere, it is failing to give them the opportunity for success for which they are seeking. More seriously still, unless the law school can prepare its students approximately as well as their competitors are prepared elsewhere, it is foisting upon the community an element in the legal profession positively harmful in its operation. Under such circumstances that community would be better off without any law school at all, in that case drawing its legal profession from the schools elsewhere located, in which work of standard efficiency can be done.

As applied to the problem in state universities, a good law school carried on in the state can improve by its graduates the standard of efficiency in the legal profession and thereby justify its existence. A poor law school carried on in the state, unable to turn out as good lawyers as come to the state from other schools where their education has not cost the state a cent, has no claim to continued existence and support at the expense of the state treasury. If the university, through the enforcement of regulations prescribing an undue number of teaching hours for law teachers lowers the teaching efficiency of its law school below the generally prevailing standard in reputable law schools throughout the country, it puts itself in the position of spending the public funds, collected through taxation, to provide a poorer quality of legal service to the communities throughout the state than would be available through better prepared lawyers coming from other schools where their education has not cost the state a cent. By maintaining an inferior law school the university

conspicuously fails to serve its own law students properly, but succeeds admirably in giving to the state considerably less than nothing in return for the funds expended in its support.

That there is a traceable connection between the number of law teaching hours and teaching efficiency, is borne out, so far as definite data are available, by observations of the relative success of law students after they go into practice. As appears by reference to the table in the foot note,² the greatest success in practice has been found among the graduates of the schools maintaining the lower schedule of teaching hours. While it is doubtless true that many other factors in success in practice may be isolated, where the numbers are so large as those here involved such other factors are likely to a considerable extent to offset each other. The result is therefore a demonstration, so far as it goes, that the students who came from certain groups of schools were better prepared than others, their better preparation being reflected in their greater success in practice. When it is observed in the same connection, with other differences largely offsetting each other, that the groups of schools providing the most efficient preparation have also been the groups maintaining exclusively a low teaching hour schedule, while in the groups of less successful schools fall all the cases of heavier teaching hour schedules, the conclusion of some connection more or less definite between the number of teaching hours and effectiveness of preparation is wellnigh irresistible.

The meritorious facts of the case for the law schools in favor of a low teaching hour schedule have now been set forth. The fact that the student hour schedule in law schools is relatively low, the fact that law work is substantially graduate in character, the fact that even the present demands on law school teachers involve much more than can consistently with good teaching

² In connection with the data on legal preparation as tested by results in practice, described at length in an article to appear in the November 1919, issue of the Harvard Law Review, some material in addition to what appears in that article was also gathered touching upon law school methods as tested by success in practice. Without repeating here the process there described at length, by which an index of success in practice was found, suffice it to say that success in practice was measured by success in court. While in the general inquiry regarding the success of various law school methods attention cannot be drawn to any single feature to the exclusion of many other interacting factors in the matter of instruction and in the matter of later success in practice, still it is appropriate here to note, for its bearing on the subject discussed in this paper, the showing which appeared regarding law school teaching hours. In this phase of the inquiry

be satisfactorily performed, the fact that it is impossible for a single university to reduce the teaching efficiency of its own law school below the standard generally prevailing without utterly destroying its usefulness to the community, and the fact that larger numbers of law teaching hours rationally and demonstrably lead to impaired teaching efficiency; all these facts point to the necessity of maintaining the law school teaching hour schedules, emergencies excepted, at approximately standard proportions.

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four groups were made, with numbers of students concerned, relative success in practice, and law teaching hours, as follows:

	No. of students to come to North Dakota to practice	% of success in practice	Law teaching hours
Minn.	144	100.	8 hours.
N. Dak.	280	79.72	11-12 hour basis, on the testimony of Mr. Birdzell, who was a member of the faculty through most of the period under observation.
Harvard, Yale, Columbia, Michigan, Wisconsin, Chicago, Iowa, Northwestern, Illinois, Nebraska, N. Y. University.	74	99.54	Average 7-8 hours.
About forty other law schools	101	77.76	All others; whatever there has been of heavier teaching hour schedules.

In justice to the University of North Dakota Law School it should be remarked that the school was started at the beginning of the period of observation for which the data were compiled and that the effort was consistently made from the start to bring the school up to standard efficiency. This effort resulted, near the close of the period under observation, in the increase of the law faculty to four full-time professors and two men contributing a part of their time, the regular full-time teaching schedule being nine hours per week. Its library, too, had been substantially enlarged till it contained approximately ten thousand volumes. It was recognized as qualified and admitted to membership in the Association of American Law Schools. Finally, its admission requirements were raised, at the end of this period of observation, to include the satisfactory completion of at least two years of college work. It is therefore believed that the University of North Dakota Law School is on the new basis equipped to do work of standard efficiency, and is thereby ready to render corresponding service to the community.